IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.982 OF 2004

Ms.Anita Sripatrao Bhosale .. Appellant

Versus

Municipal Council, Pandharpur .. Respondent

Mr.M.A.Utgikar for appellant

Mr.S.S.Patwardhan for respondent

CORAM : P.V.KAKADE,J.

DATE : 30TH NOVEMBER,2004

P.C.:

1. Heard the learned counsel for both the parties. Perused the record.

2. This is an appeal preferred by the appellant-original defendant against the judgment and order passed by 3rd Addl. District Judge, Pandharpur dated 29th April 2004 dismissing the appeal and

confirming the judgment and order passed by Joint Civil Judge, Junior Division, Pandharpur dated 10th Jul,y 1996 decreeing the Respondent-Municipal Council suit for possession.

3. The respondent filed suit for possession of Suit Shop Nos.85 and 86 alleging that the monthly rent of each suit shop was Rs.100/=. Tenancy was from month to month . Monthly rent was enhanced by 25% from 1.4.1992. The appellant-defendant failed to pay agreed rent regularly and tenancy came to be terminated by legal notice. As the possession and rent were not paid the suit came to be filed against the present appellant.

. The learned trial judge adjudicated the dispute on merits holding that the appellant was defaulter in payment of rent and decree on possession came to be passed. The appeal was carried to the Court of Addl. District Judge, who confirmed the reasoning adopted and findings recorded by the Lower Court and dismissed the appeal. Hence the present appeal.

4. At the outset it may be noted that the defendant has come with the case that pending the appeal a compromise

process was initiated by him and the Standing Committee of Respondent Council passed Resolution to that effect that the matter should be compromised. However, that aspect was not considered by the Lower Court and therefore, the question is agitated to the effect that when section 100 of Maharashtra Municipal Council Act, the President can compromise the suit arising out of contract, where contract effected by Standing Committee of which the President is Chairman, is valid, legal and proper.

. In this regard it must be noted that so called question of law sought to be raised in this manner expect this negative acts the compromise is not effected for which the Resolution is passed by Standing Committee, the provision of Section 100 of the act is also certain rules and regulations under which concerned authorities are expected to hold enquiry and after the enquiry it was held that it would be advantages to the Municipal Council then the proposal of compromise would be ratified and effected. None of these steps have been taken in this matter and therefore, mere resolution of Standing Committee cannot be specifically enforced by the appellant to effect the compromise. The learned

counsel for the respondent submits that the President of the Municipal Council has not taken any decision to compromise the matter. In view of this position the only arguments advanced at this stage that Standing Committee Resolution can be imposed any devoid of merits.

5. So far as other aspects involved in this dispute those are purely question of facts which are adjudicated by both the courts below in just, legal and proper manner and therefore, would brook no interference.

6. In the result the appeal is devoid of any merits and thus stands dismissed in limine with no order as to costs.

. Consequently the civil application stands dismissed with no order as to costs.